

EXHIBIT 13

David Kumor
October 18, 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC., :
d/b/a STAR TOYOTA OF BAYSIDE), :
STAR AUTO SALES OF QUEENS, LLC, :
d/b/a STAR SUBARU, STAR HYUNDAI, : NO: 18-CV-05775
LLC, d/b/a STAR HYUNDAI, STAR : (ERK) (TAM)
NISSAN, INC., d/b/a STAR NISSAN, :
METRO CHRYSLER PLYMOUTH, INC., :
d/b/a STAR CHRYSLER JEEP DODGE, :
STAR AUTO SALES OF QUEENS COUNTY, :
LLC, d/b/a STAR FIAT and STAR :
AUTO SALES OF QUEENS VILLAGE, :
d/b/a STAR MITSUBISHI, :
Plaintiffs, :
- vs - :
VOYNOW, BAYARD, WHYTE AND :
COMPANY, LLC, HUGH WHYTE and :
RANDALL FRANZEN, :
Defendants. :

* * *

Oral deposition of DAVID KUMOR, taken at
U.S. LEGAL SUPPORT, 1818 Market Street, Suite 1400,
Philadelphia, Pennsylvania, 19103, on Tuesday, October
, 2022, beginning at approximately 11:00 a.m., before
Lisa M. Cooper, Court Reporter.

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U.S. LEGAL SUPPORT
Northeast Processing Center
1818 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
(877) 479-2484

1 A. I don't know how to spell his last name.

2 There's too many that I can -- don't know the names.

3 Q. Okay. I want to understand a little bit
4 about the process of how Voynow -- how it operated and
5 how it worked.

6 A. Um-hum.

7 Q. Before you went to a particular client at
8 Voynow, how did you get assignments?

9 A. So you mean which dealership we were going
10 to.

11 Q. Which dealership, and what your job was. And
12 I'm talking in your role as staff accountant.

13 A. As a staff accountant, I think it was just
14 whoever was available to go up there would go up there.
15 If we're talking Star in particular, that's basically
16 how it was. The people that -- because we brought, I
17 think, six to seven people up there.

18 And then the younger guys would get to go
19 around in what we called service, which would be
20 visiting all the dealership service centers. Looking
21 at open repair orders, open parts tickets. And that
22 usually took a day. Just to do three of the stores.
23 And then Toyota and Nissan, I believe, were their own
24 service facilities. That took a day itself. Because
25 of how many open repair orders and parts invoices they

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1 Whatever -- if Rob worked on a store?

2 A. Yeah, if Rob worked upon a store, I typed it
3 up, I gave it to him. He gave it back to me for
4 corrections. I gave it back to him with his
5 corrections. And whatever he did with it after that,
6 it probably went to Randy for review.

7 Q. Okay. When you were manager, did you see the
8 final product of interim reports?

9 A. Yes.

10 Q. But you weren't responsible for the final
11 product. That would go to the partner, correct?

12 A. No. When I was manager, I'm thinking there
13 is one auto group that I did interim letters for. I
14 re-read them, because I know the owner or CFO is
15 calling me, versus calling the partner.

16 Q. Okay. While -- while you worked at Voynow,
17 what industries were essentially the clients of Voynow?

18 A. Predominantly dealerships and dealership
19 related stuff. Like real estate. But they were all
20 pretty much connected to the dealership.

21 Q. That one client who you would review the
22 interim letter for --

23 A. Um-hum.

24 Q. -- because they would call you, what
25 dealership was that?

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1 Florida. A bunch in Pennsylvania, Jersey, New York.

2 Those were the ones I was -- I went to.

3 Q. Okay. Was -- what was -- if you had a
4 location that was the predominant number of dealerships
5 that you went to, was that Pennsylvania? Or New York?
6 New Jersey?

7 A. Pennsylvania would probably be the place I
8 went the most.

9 Q. Okay. And then after that?

10 A. Jersey.

11 Q. And then New York after that?

12 A. Then New York, yeah.

13 Q. Did Voynow sort of hold it out as a firm that
14 specialized in dealerships?

15 A. Yes.

16 Q. And had a particular expertise and knowledge
17 of how dealerships operated?

18 A. Yes.

19 Q. Now, you went to, say, 30 dealerships as an
20 approximate number, in your time there. Would you know
21 approximately how many dealerships Voynow had as
22 clients?

23 A. It would just be a guess. I would say
24 probably 60. 60 to 70.

25 Q. When you started working at Voynow,

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1 to look at the sales forecast. So if Toyota says, you
2 know, they sold say a thousand more units, we would
3 expect our dealerships to have sold more units than
4 they did in the prior year.

5 And if they didn't, then we would have to
6 contact the CF -- or whoever is in charge of Toyota and
7 be like, so Toyota is saying that they sold, as a motor
8 vehicle company, a thousand more units. You sold 20
9 less units. Do you know why? And they would say, our
10 allocation was messed up. So we would have to look at
11 certain statistics like that.

12 A. Okay.

13 Q. So it involves some -- some analysis?

14 A. Yes. And we had checklists we actually had
15 to go off of too.

16 Q. Okay. When it came to doing tax work, did
17 that involve any analysis?

18 A. Not really.

19 Q. Compilations, any analysis?

20 A. I think compilations were what the customer
21 gave us. And then we just put it into an accounting
22 form. I don't think there was much there.

23 Q. Okay. The interim letters that were
24 prepared, were those prepared after looking at
25 schedules and books and records of the --

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1 A. Um-hum.

2 Q. -- clients?

3 A. Yep.

4 Q. And, again, looking at the books and records,
5 what would that be comprised of?

6 A. Just looking over the schedules that they had
7 prepared.

8 Q. And what else?

9 A. Asking any questions of anything that looked
10 out of place, I guess.

11 Q. Okay. Now, Voynow is a CPA firm, right?

12 A. Yes.

13 Q. And you studied to be a CPA and you almost --
14 you almost made it?

15 A. Just one part of the test.

16 Q. One part of the test. All right. Have you
17 -- are you familiar with the term professional
18 skepticism?

19 A. Yes.

20 Q. And that's -- can you describe that for me?
21 What that means in your mind.

22 MS. FITZGERALD: Object to form. Go
23 ahead.

24 THE WITNESS: If we see something out of
25 place we would inform the owners.

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1 rest of them.

2 BY MR. MULE:

3 Q. Okay. Let me take that back. Okay. I'll
4 show you what has been marked as Exhibit-28 for
5 identification.

6 A. Um-hum.

7 Q. If you can take a look at that. And then
8 after you've reviewed it, if you can tell me what that
9 is.

10 A. This is a --

11 MS. FITZGERALD: Hold on. What is 28?

12 MS. CUTILLO: The list of schedules.

13 MS. FITZGERALD: Okay.

14 THE WITNESS: So that's what this is.
15 A schedule of the schedules. And if you look
16 at the second page, for Star Subaru, the M's
17 next to it mean that we can print it out as a
18 mini schedule. And there should be some F's
19 somewhere, for full. Like number 5, that's
20 not marked, that has to be printed out as a
21 full schedule, because it won't be printed
22 out as a mini schedule.

23 BY MR. MULE:

24 Q. Number 5, what are you referring to?

25 A. I'm sorry. Schedule number 5. So it's the

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1 out by current, 31 -- or it breaks it out by the age.

2 31 to 30 days, so it's easier to see.

3 Q. So it would be current, then 31 to 60?

4 A. Yes. 61 to 90. And 121 plus.

5 Q. Okay. Down to number 8, Warranty Claims. It
6 has Type 3. Do you know what that is?

7 A. Probably the same. I just -- I just don't
8 know the difference between two and three.

9 Q. Okay. So if you go down a few pages to Star
10 Toyota Bayside. That has 61 schedules that are listed.
11 So would that mean that, on a visit to Star, that
12 Voynow would receive approximately 60 schedules,
13 excluding the cash and bank one?

14 MS. FITZGERALD: Objection.

15 THE WITNESS: It would be 61 schedules.

16 But just looking at it, there were at least
17 ten cash and bank ones.

18 BY MR. MULE:

19 Q. Okay. Is there any reason why there would be
20 multiple cash and bank schedules?

21 A. Yeah. Most people separate their cash and
22 bank between what their bank account is. So if you
23 have a checking account versus a main account, versus
24 payroll account, those were on their own cash and bank
25 accounts. And I don't schedule our cash and bank. I

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1 don't know if Reynolds forces you to schedule it,
2 though, so.

3 Q. Going down to page 7874, Voynow. There's a
4 couple of entries that looks like there is a highlight.
5 Service and Parts Receivable and Warranty Claims. Do
6 you see that?

7 A. Yes.

8 Q. Do you know why that would be highlighted?

9 MS. FITZGERALD: Objection.

10 THE WITNESS: Probably just to tell the
11 employee printing it out that those are full
12 schedules you need to print out. Because it
13 looks like none of the other -- yeah, so if
14 you look at the next page, only the 3's and
15 -- 2's and 3's are highlighted. So they're
16 just telling the person printing it out, that
17 this is what you have to print out, a full
18 schedule.

19 BY MR. MULE:

20 Q. Okay. And there's handwriting on the right
21 side on that page. Do you see that?

22 A. Yep.

23 Q. Do you know what that is?

24 A. No idea.

25 Q. All right. We can put that aside. Were you

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1 charged at all, while you worked at Voynow, with
2 drafting engagement letters?

3 A. Yes.

4 Q. Okay. Did you ever draft an engagement
5 letter pertaining to Star?

6 A. No.

7 Q. Okay. When -- when you were a staff attorney
8 were you charged with drafting any engagement letters?

9 A. A staff accountant.

10 Q. Staff accountant, yes.

11 A. Okay. I -- I might have written it up, but
12 it always went through review.

13 Q. Okay. Do you recall any particular clients
14 that you worked on for which you drafted an engagement
15 letter?

16 A. Paruzzi, Thompson. Those are the ones that I
17 definitely did.

18 Q. Okay.

19 A. Because the reviewed financial statements
20 were different than the tax return ones. The tax --
21 different than the tax return ones.

22 Q. The reviewed are different than the tax
23 return ones?

24 A. Different than -- they are two different
25 engagement letters.

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1 your tenure at Voynow, approximately 30 dealerships?

2 A. Um-hum.

3 Q. And for those 30 dealerships, did you -- how
4 many times a year would you typically go to those
5 dealerships?

6 A. At least twice.

7 Q. At least twice. Okay. And would that depend
8 on a scope of work that you were doing for that
9 particular dealership?

10 A. So for the two times that we had to go, it
11 would have been for tax planning, because we're trying
12 to estimate the fourth quarter follow up payment, to
13 see if they needed to pay more or pay less. And then
14 the second time would be to go out and see if there's
15 postings like the trade discounts, check LIFO. And
16 then any other tax rolls we could think of.

17 Q. So two times would be for tax work. You have
18 the preplanning, and then you have too, the --
19 basically to put everything together.

20 A. Correct.

21 Q. Okay. And then if you went more than two
22 times a year, why would you go more than two times a
23 year?

24 A. We were either requested -- it was mainly
25 requested.

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1 Q. Okay. Were -- if Dave Lombardo testified in
2 this -- in this matter, and you spoke to him about it,
3 right?

4 A. Um-hum.

5 Q. And he said he was exhausted, right?

6 A. Yep.

7 Q. He didn't say anything else about his
8 testimony, right?

9 A. No.

10 Q. Okay. So he indicated, in his testimony,
11 that they would do these interim visits usually in the
12 summer. Does that --

13 A. Um-hum.

14 Q. -- coincide with your recollection of what
15 you would do?

16 A. Yes.

17 Q. And that what they would do is they would
18 review books and records. The clients internal
19 controls, and issue a letter detailing what was found.
20 Does that coincide with your recollection of what you
21 would do?

22 MS. FITZGERALD: Objection.

23 THE WITNESS: Yes.

24 BY MR. MULE:

25 Q. Okay. There are some clients of Voynow who

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1 A. And then he -- he would go by -- review every
2 -- or look over everyone's papers, or their schedules
3 and stuff, make sure we didn't miss anything that we
4 should ask questions about.

5 Q. Okay. So when you'd go to a particular --
6 I'm talking more generally. Go to a particular
7 dealership, and the partner in charge, or the manager,
8 or managers, with respect to the different dealerships,
9 would go, and also staff accountants, right?

10 A. Yep.

11 Q. And would everyone congregate at the
12 accounting office first?

13 A. Yes.

14 Q. So you'd get to the dealership, you'd go to
15 the accounting office. And what would happen next?

16 A. So we would start printing out all the
17 schedules. First we would start with the scheduled
18 schedules. And then from there we would print them all
19 out. And then someone would get the job of stapling
20 then all together, and then separating them by store so
21 that the person working on it had all the papers to
22 work on a particular store. And then if we were going
23 out to do service, then someone had to print out the
24 open repair order list, plus the open parts list. Open
25 parts invoice list.

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1 Q. Okay. And those would essentially then get
2 divvied out among the different staff accountants?

3 A. Yes.

4 Q. And then what would happen after -- you --
5 you would get a -- you would get a bunch of different
6 schedules for a particular store, and then you're
7 responsible for that entire store? Or would it work
8 out differently, where you would get a particular
9 schedule with respect to a particular store and you got
10 to deal with that particular schedule?

11 A. Are we talking about generalized? Or
12 particularly at Star? Because they worked differently
13 at each dealership.

14 Q. Let's go general first and then how it worked
15 at Star.

16 A. So general first, it worked differently
17 between the managers. Some managers wanted some people
18 to look at fixed assets, and then the rest of the
19 assets would be assigned to someone else. Bank recs
20 would be assigned to someone else. And payables would
21 be assigned to someone else. So it all depended on
22 what the team was there.

23 Q. Okay.

24 A. The way I liked to run my job is that
25 everyone was in charge of their own store, so that way

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1 they could learn.

2 Q. So they would be responsible for all the
3 schedules at a particular store?

4 A. All the schedules. The only thing that would
5 be broken up would have been the bank recs for me, and
6 the fixed assets. Because I like to go to the person
7 if I have a question.

8 Q. Okay.

9 A. Versus trying to figure out who did it.

10 Q. Okay. And how did it work at Star?

11 A. Star was broken out by, someone was in charge
12 of Chrysler. Someone was in charge of Toyota. Someone
13 was in charge of Nissan. So it was each individually.
14 And same thing with the other two stores. Plus
15 whenever Mitsubishi was around, and Fiat.

16 Q. Right.

17 A. So they would be in charge of those stores by
18 themselves.

19 Q. When you say someone would be in charge, that
20 would be one of the managers?

21 A. No. A staff accountant would be in charge of
22 asking questions. And then if they had any questions
23 about the questions they asked. So if the person said
24 something they didn't understand, then they would go to
25 the manager that was working on a different store.

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1 Q. You said the manager that was working on a
2 different store?

3 A. A different set of work papers.

4 Q. Okay. What work papers would the manager be
5 working on?

6 A. The schedules.

7 Q. Schedules. All right. So I'm a little
8 confused, because the staff accountant would get the
9 schedule for a particular store, correct?

10 A. Yeah. He would -- he would originally print
11 them all out.

12 Q. Right.

13 A. And then he would separate them by store.
14 And then give the store to the appropriate manager. So
15 like I said, for Bobby, if he was working on Toyota, we
16 would have a stack of Toyota schedules that we would
17 give to Bobby.

18 Q. Oh. Okay.

19 A. And then there would be -- if Rob was working
20 on Chrysler, we would give him Chrysler. And then if
21 Shawn was working on Nissan, we would give him Nissan.
22 There should be two stores left. And then whoever was
23 the more senior that wasn't going out to do the
24 service, would get the other two stores.

25 Q. Okay. So they would get the full packet of

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1 all the schedules?

2 A. Yes. For that particular store.

3 Q. Okay. And then what would the staff
4 accountant do after handing over the schedule?

5 A. When he was done with that store, there would
6 be the Hyundai -- or, I'm sorry. Subaru and Hyundai
7 left. So he would be working on that store. Those two
8 stores. Because they were smaller. Usually didn't
9 have as many schedules.

10 Q. Okay. So you congregate at the accountant's
11 office?

12 A. Yep.

13 Q. You print out all of these schedules.

14 A. Um-hum.

15 Q. They're all compiled and separated by store.

16 A. Yep.

17 Q. They're given to the -- the manager
18 responsible for that particular store.

19 A. Um-hum.

20 Q. And then the staff accountant is doing what
21 the rest of the day?

22 A. The staff accountant -- so two of the staff
23 accountants would have went out and did service.

24 Q. Now, what does that mean, go out and do
25 service?

1 A. The open repair order list and open parts
2 tickets we were talking about before, they would go and
3 ask why -- usually we did seven days or older. Why
4 that repair order was still open. And it could have
5 been as simple as "We're waiting for a part." And if
6 determined that the car was waiting on a part, we would
7 have to go find that vehicle.

8 Q. Okay. So that would be two staff
9 accountants.

10 A. Yes. Normally two.

11 Q. And then there would be other staff
12 accountants that are doing something else?

13 A. Usually one or two other ones. They would be
14 working on the Hyundai store and the Subaru store. So
15 they would get their own stores.

16 Q. Okay. So they're doing essentially the same
17 work as the manager's doing?

18 A. Yes.

19 Q. Okay. Are they more senior?

20 A. Usually they're more senior, yes.

21 Q. Okay. When you were working at Star, I guess
22 in your, say 2016, 2017, were you responsible for doing
23 that work on, like, the Subaru store?

24 A. Yes.

25 Q. Okay. And Subaru was the store that you

1 A. We would follow checklists. The checklist
2 changed from year to year. But it was follow up on
3 certain things. I haven't done one in so long. There
4 was a lot to them, so. I mean, we're talking pages and
5 pages here. We're talking 40 to 60 pages of checklists
6 that we have to look at. And read and review. It's
7 broken down by sections. Kind of like the -- one page,
8 say, it's like cash. And then it has receivables and
9 it has fixed assets. So it has different checklists
10 that we have to say that we performed this task.

11 Q. Of the, like, 30 dealerships that,
12 approximately, that you did work on while at Voynow,
13 approximately how many of those, or what percentage,
14 had interim reports?

15 MS. FITZGERALD: Object to form.

16 THE WITNESS: Six, maybe. Seven.

17 Probably about 10.

18 BY MR. MULE:

19 Q. So about one-third of them?

20 A. Yeah, a third of them.

21 Q. And by interim reports, I'm using that sort
22 of simultaneously -- synonymously with interim visits.

23 A. Yes. Yes.

24 Q. Okay. The interim visits, did they always
25 result in a written interim report?

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1 A. The ones I worked on, yes.

2 Q. Okay. And when you say the ones you worked
3 on, are those the ones that you're responsible for?
4 Or, to your knowledge, the ones that you participated
5 in, even if you didn't see the end result?

6 A. Yeah. Even if I didn't see the end result, I
7 wrote up whatever I worked on.

8 Q. Okay. And whether that -- the partner in
9 charge actually issued an interim report, you don't
10 know?

11 A. I do not know.

12 Q. Okay. But on the ones that you were
13 responsible for, Paruzzi --

14 A. Just Paruzzi had the interim. And then I
15 made sure, because the owner expected to see it, so.

16 Q. Okay. And of the ten -- say the ten out of
17 30 dealerships that included this type of interim
18 visit, should that have been included in the engagement
19 letter?

20 A. It's beyond my knowledge.

21 Q. You don't know?

22 A. I don't know.

23 Q. Okay. Before starting an engagement with a
24 client, or going out to a client, would the partner in
25 charge have a team meeting?

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1 Q. Did you keep track of your time when you went
2 to clients?

3 A. Yes.

4 Q. Was it required?

5 A. Yes.

6 Q. Okay. Regardless of the engagement?

7 A. Yes.

8 Q. Okay. And was TrackTime the software?

9 A. It was TrackTime. And then there was
10 something else after TrackTime.

11 Q. Did different work -- strike that. Did you
12 have different billing codes?

13 A. Yes.

14 Q. Did different work have different billing
15 codes associated with it?

16 A. We had billing codes for -- I know I used
17 review and audit, because we had to bill those
18 separate. And then the tax work too. We had different
19 billing codes for that. And I think there was one for
20 interim too.

21 Q. To your knowledge, there was a billing code
22 for review and audit.

23 A. Um-hum.

24 Q. Those were together, as one billing code?

25 A. No. There were separate billing codes.

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1 Q. Okay. So there was one billing code for
2 review.

3 A. Yes.

4 Q. One billing code for audit.

5 A. Yes.

6 Q. One billing code for tax.

7 A. Yes.

8 Q. And one billing code for interim?

9 A. Yeah. And then there were a couple of other
10 ones. Maybe it was called Special, but I don't
11 remember.

12 Q. Okay. Special. Do you know what special
13 accounting services are?

14 A. I do not. My guess would be client requested
15 services.

16 Q. Okay. Could -- strike that. Have you ever
17 seen billing that said special accounting services?

18 A. The way I did my time and tried to get anyone
19 else that was billing special, you would bill special
20 and then write out a nice long description of what this
21 special meant.

22 Q. Okay. Do you know if there was a billing
23 code for compilation work?

24 A. I don't know.

25 Q. Okay.

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1 A. I'm sure there was.

2 Q. For 401K audits?

3 A. Yeah, the audit we used for 401K. The only
4 other audit was that Bordentown one. But I didn't work
5 on that, so.

6 Q. Okay. Did you make your own descriptions as
7 far as billing?

8 A. I would try to put -- special was the big one
9 that I made sure I wrote whatever I did. I might have
10 learned that later in my career, though. So when I was
11 a staff accountant I wrote comments in. But I don't
12 even know what half those comments are.

13 Q. Okay. Was there any -- if you put in a code,
14 do you know if any of those codes would prompt a sell
15 population, where it would populate with a particular
16 entry? Or do you have to put in a specific entry under
17 a code?

18 A. It's been a while. But if -- like we would
19 do reviewed and then -- the examples I'm thinking of
20 are reviewed. And then it would say checklist. So we
21 would do the checklist. And then you can write a
22 description. We tried to break that out to see what
23 took the most time. Because I like to know if people
24 were just BS-ing sometimes. For at least the reviewed.

25 Q. Right. Besides TrackTime software, you said

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1 MS. FITZGERALD: Objection.

2 THE WITNESS: It would not be odd,
3 depending on what account. If Bobby was just
4 looking at the payables and then he saw this
5 and looked at the accrued account after he
6 saw this e-mail and found another expense,
7 then, yeah, that's happened. Because I might
8 not want to -- he may not have wanted to
9 forget about this advertising expense and
10 then possibly found more later.

11 BY MR. MULE:

12 Q. Okay. Thank you.

13 MR. MULE: We'll Mark this Exhibit-40.

14 * * *

15 (Whereupon, the above-mentioned document
16 was marked for identification as Exhibit-40.)

17 * * *

18 BY MR. MULE:

19 Q. Okay. I'll show you what has been marked as
20 Exhibit-40 for identification. It's a compilation of
21 time records. The first two pages are Bates stamped
22 Voynow 024425 and 024769. The pages subsequent are --
23 are from documents in native format. And I can get you
24 the Bates numbers as I go over them.

25 A. Yep.

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1 much their -- their engagement was annually?

2 A. I don't remember off the top of my head.

3 Q. Would you have some estimate in your head as
4 to how much?

5 A. Probably between 60 and 80 grand.

6 Q. So looking at this last page, going over the
7 letter. On the top it says Star Hyundai?

8 A. Um-hum.

9 Q. So that would indicate that you did work on
10 the interim for Star Hyundai?

11 A. Yep.

12 Q. Okay. Is it -- is it possible that you would
13 have done work on multiple entries and just billed them
14 to Star Hyundai? Or if you billed it under Star
15 Hyundai you did the interim letter for Star Hyundai?

16 A. It's possible for 4.4 hours I was probably
17 reading the Star Hyundai letter to check to see for any
18 obvious journal errors.

19 Q. Okay. Let's go to the next page, which comes
20 from the native document Voynow 017575. It's May 2013
21 time entry. And it indicates Star Service and Parts,
22 ten hours by you.

23 A. Um-hum.

24 Q. So would this have been -- this is -- it says
25 May of 2013.

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1 indicated finding out what it was for, would there have
2 been some resolution of that?

3 A. There should have been. But I don't -- I
4 don't know what the outcome was.

5 Q. Okay. All right. We can put that aside.
6 All right. I'll show you what is marked as Exhibit-9
7 for identification. If you can take a look at that.
8 Do you know what that document is?

9 A. Looks like we went to the cashiers and asked
10 them to count their drawers for us. Their cashier
11 drawers.

12 Q. It says cashier audits.

13 A. Um-hum.

14 Q. That's -- do you ever do a cashier audit?

15 A. I have.

16 Q. Were you involved in cashier audits? This
17 particular cashier audit?

18 MS. FITZGERALD: Objection to the form.

19 THE WITNESS: I don't know if we would
20 consider it an audit, but we asked them what
21 your cash should be at in your drawer at this
22 time. And let's say they have \$500. We
23 ask them to count out 500, and if they only
24 have 450, we ask them why are they 50 short.
25 Or if they are over, why are they over.

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1 BY MR. MULE:

2 Q. Do you know why this was being done?

3 A. I do not know.

4 Q. Is there a particular tax reason for doing
5 this?

6 A. The only tax reason I can think of is if they
7 were under you can get an additional expense, or you
8 have to set up a receivable. I don't know in New York
9 if you can tell the cashier you have to pay me back.

10 Q. Okay. This is work that's not typically done
11 with respect to tax work --

12 MS. FITZGERALD: Objection.

13 BY MR. MULE:

14 Q. -- would you agree with that?

15 A. Yeah, this must have been something that we
16 were asked to do.

17 Q. Okay. And if it was something that you or
18 Voynow is asked to do, should that have been a separate
19 engagement detailing that?

20 A. Technically, yes, there should have been.
21 But something this small, I don't know if there would
22 have been one.

23 Q. Do you know who typed this report?

24 A. No.

25 Q. Is there anything on this report that would

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1 MS. FITZGERALD: Objection.

2 THE WITNESS: They would have. I'm just
3 reading Nissan. I mean, your parts inventory
4 is going to be off too. But they're saying
5 they leave an IOU. So your parts list is
6 going to be off if they don't get the IOU
7 back.

8 BY MR. MULE:

9 Q. Is there any reason this would have been
10 done, then?

11 A. It would be just to make sure the integrity
12 of the deposit was good.

13 Q. And that's really a qualitative type
14 analysis, right?

15 A. Um-hum.

16 Q. Okay. All right. I'll take that. Thanks.
17 All right. I'll show you what has been marked
18 Exhibit-17 for identification. Okay. This is -- the
19 first page is an e-mail from Randy Franzen dated June
20 8th, 2011.

21 A. Um-hum.

22 Q. And it's to Michael Koufakis, copied to
23 gomena05@aol.com. Do you recognize gomena as the
24 e-mail address for Vivian Karouzakis?

25 A. I don't know her -- what her e-mail address

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1 was.

2 Q. Okay. And this -- the body of the e-mail
3 says, "Hi, Mike. Attached are the interim letters."
4 We had some concerns with the parts department. There
5 is a lot of activity and the followup is not up to par.
6 When you have some time I would like to go over our
7 concerns in the parts department. Any questions,
8 please do not hesitate to contact us. Randy." Do you
9 see that?

10 A. Um-hum.

11 Q. Okay. So this -- this e-mail, at least,
12 clearly concerns concerns, right? It's concerns that
13 Voynow has about the parts department, right?

14 A. Yep.

15 MS. FITZGERALD: Objection.

16 Q. And concerns about the parts department is
17 certainly something that deals with internal controls.
18 Or how they operate, correct?

19 MS. FITZGERALD: Objection.

20 THE WITNESS: So you can have concerns
21 for multiple reasons in the parts department.
22 Because I know that's one of the places they
23 say is the easiest to steal from, is the
24 parts department. So if people are taking
25 parts out of there, you are going to have an

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1 expense. Just trying to catch up you will
2 discover these when they do a parts physical,
3 on how different your accounting is. What
4 your accounting says your parts inventory
5 should be versus your physical parts.

6 BY MR. MULE:

7 Q. Why is it that parts are easiest to steal?

8 A. Because they fit in people's pockets pretty
9 easily.

10 Q. Okay.

11 A. You're not stealing like a transmission or
12 anything. Like a \$3,000 transmission. But oil
13 filters, rings and stuff like that, those are pretty
14 easy to steal.

15 Q. So looking at page four -- first of all, page
16 one of the attachment, May 30, 2011. So Michael
17 Koufakis, Star Toyota Bayside. And if you go to page
18 4, the parts department, it says we looked at the open
19 parts invoices. Knowing there are many open parts
20 tickets dating back as early as August 2006. Reasons
21 for these open parts vary from parts ordered for
22 customers, but never picked up, to parts ordered and
23 installed but never paid for, et cetera.

24 "We recommend management review the open
25 parts invoices with the parts manager and institute a

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1 number and quality available, which is a different
2 number. So that's when I was like, oh, can we go check
3 it out? And we did.

4 Q. Okay. Was that quantity on hand?

5 A. Quantity on hand.

6 Q. And then quantity available?

7 A. Quantity available. So if your parts ticket
8 was open for one particular part, you should have eight
9 in the bin, what the system is telling you. If it's on
10 the parts ticket seven are available, so you have to
11 have one in there in order to sell to the person who
12 the ticket's being allocated to.

13 Q. Okay. I'll show you what is marked as
14 Exhibit-19 for identification. And the first part of
15 it is just a -- it's a schedule of the service and
16 parts receivable, correct?

17 A. Yes.

18 Q. And that's the from Reynolds System?

19 A. Yes.

20 Q. And the left side top indicates that it was
21 printed out 11/24/14 for Star Subaru by Gladys, right?

22 A. Yes.

23 Q. If we go in several -- actually quite a bit
24 down, to document Bates stamped Voynow 011159. And
25 this looks like a draft of an interim report, correct?

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1 A. Yes.

2 Q. And you reviewed service and parts
3 receivables, right?

4 A. What time was this? Yeah, it looks like it.

5 Q. Okay. Are -- do you know if these are your
6 notes?

7 A. On here?

8 Q. Looking at Voynow 1, 001159, going into
9 01161.

10 A. I don't know if these are my notes or not.

11 Q. Okay. Do you know if any portion of that
12 would have been your notes?

13 A. I used to round off the cents, so to me those
14 don't look like mine.

15 Q. Okay. All right. Let's look at the service
16 and parts receivable. It says, under there, "We
17 discussed the service and parts schedule with Gladys
18 and noted the following deals are over a week old."

19 A. Um-hum.

20 Q. And this lists a bunch of vendors with
21 receivables that are over 120 days old, is that
22 correct?

23 A. Correct.

24 Q. Okay. So -- and then there is comments. The
25 comment for the first one, it's customer 8 227,

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1 Champion Collision, 1158.61. The comment amount was
2 paid, according to customer being disputed.

3 A. Um-hum.

4 Q. So that's a customer dispute, right?

5 A. Customer is disputing saying they already
6 paid.

7 Q. Okay. Then the next one, the customer's name
8 is Michael Kall. And it says, "Being researched. Will
9 be collected per Gladys," is that right?

10 A. Um-hum.

11 Q. And the next one, Avis Rental Car. Doesn't
12 say anything. Next one, Cross County, 8879. \$3,032.21
13 That doesn't say anything either, right?

14 A. No.

15 Q. And then the last one says, "Paul Petrone,
16 \$4,855.58. Amount was paid per customer being
17 disputed", right?

18 A. Um-hum.

19 Q. For the most part, it indicates customer
20 disputes or collected or will be collected, and there
21 are two that don't have any comments.

22 MS. FITZGERALD: The one has comment
23 that says "Claim".

24 THE WITNESS: It says claims next to
25 Avis, slash, Budget.

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1 BY MR. MULE:

2 Q. Claims, whatever that might be. You did
3 Subaru, right, for Star?

4 A. I did, yes.

5 Q. Okay. Let's go a couple of pages down, there
6 is a report. This is a -- go one more page. Right
7 there.

8 A. Um-hum.

9 Q. Is -- there is a bunch of, it looks like
10 highlighted items, and there is some handwriting. So
11 the first highlighted item, I don't know if you can
12 read it. Subaru Distribution Corp.

13 A. Yes.

14 Q. It's circled, and then says "Still on". Do
15 you know whose handwriting that is?

16 A. It's not mine.

17 Q. Okay. First of all, what is this a schedule
18 of?

19 A. Parts and service receivables.

20 Q. And this is a small caps total report?

21 A. I don't know what that means.

22 Q. Okay. Does this give a -- basically a
23 snapshot of the total of the receivables for each
24 particular customer?

25 A. Yes. Yes.

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1 Q. It's not a breakdown where it gives each
2 individual?

3 A. No. This is a summary of the parts and
4 services broken out by customer. You can get into more
5 detail if you print out more details.

6 Q. Okay. So these -- looking at the column
7 before the number, it indicates a number of customers
8 with receivables that are over 120 days old?

9 A. Correct.

10 Q. The first one, Subaru Distributors Corp,
11 \$7,338.04, right?

12 A. Um-hum.

13 Q. The next one Subaru of America, Inc. And if
14 you look at the over 121 days, it says \$94,631.56. Do
15 you see that?

16 A. Yes.

17 Q. Below that's Champion Collision?

18 A. Um-hum.

19 Q. And customer 8227. Open age receivable
20 \$1,964.61, is that right?

21 A. Yes.

22 Q. Avis Budget Rental Car, \$1,371.89?

23 A. Um-hum.

24 Q. Cross Country Motor, \$4,230.41. And it goes
25 on for another -- you know, another customer, Paul

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1 Petrone, \$6,066.53, right?

2 A. Yes.

3 Q. Now, some of these names were on that page a
4 couple pages up. So you started with Champion
5 Collision, \$1,581.61. It roughly corresponds with the
6 entry, although there's a little more on the -- on the
7 printout, which appears to be at a later date.

8 A. Yes.

9 Q. Okay. And then you will see Avis Budget,
10 \$1,371.85, and matches exactly, right?

11 A. Yes.

12 Q. And then Paul Petrone, the number on the
13 schedule is higher.

14 A. Yes.

15 Q. Okay. Cross Country, the number is also
16 higher, but they are both there.

17 A. Yep.

18 Q. All right. Is there any reason why these
19 other ones, Subaru Distributors and Subaru of America,
20 94,000, why these wouldn't be on here?

21 A. So Subaru of America, Inc., to me, kind of
22 looks like they are a factory parts statement. So that
23 would have been covered by a different note. That
24 probably would have been a second note, Subaru Factory
25 receivables, and noted those receivables as of

1 September.

2 Q. I'm sorry, by the second notes, which one?

3 A. So this is 011159. The Subaru Factory
4 account, that was the second note down.

5 Q. Review the factory parts receivables as of
6 September?

7 A. Correct.

8 Q. So --

9 A. That's what that looks like to me. Subaru of
10 America, Inc. So we -- to me, we did review it.

11 Q. All right, now, Subaru of America, Inc., what
12 is Subaru Distributors Corp?

13 A. I do not know what that is.

14 Q. Do you know which one deals with the factory
15 parts reconciliation? Is it Subaru Distribution Corp,
16 or is it Subaru of America?

17 A. I do not know which one, looking at this.

18 Q. Is there -- is there -- would that raise a
19 question that there's two of these on here?

20 A. It would raise a question. It looks like the
21 way the handwriting is that says "still on", would mean
22 to me that the -- when they looked -- when they looked
23 in the future, on 1/25/17, those were still
24 outstanding. So they would have asked the questions.
25 So when was this -- this was September, right. So this

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1 Subaru Distributors might have only been 31 to 60 days
2 at that time. At the time this letter was produced.
3 If this is from September.

4 Q. Certainly having both of these would prompt a
5 question, right?

6 MS. FITZGERALD: Objection.

7 THE WITNESS: It looks like it did
8 prompt the question.

9 BY MR. MULE:

10 Q. Okay. And would -- would the answer that,
11 what would the answer be?

12 A. For why there's two or --

13 Q. Correct.

14 A. Why there's two? That would depend on
15 whatever they asked Gladys. Because it looks like
16 that's who they asked, right? Yeah.

17 Q. Could Subaru of America at 120 days possibly
18 be a parts statement? Does that --

19 A. It all depends on -- I don't know how
20 Reynolds posts their receivables. Like in our system,
21 CDK, we can choose which invoices it applies to. So
22 then that will lower to 121 days. They might just post
23 it as a lump payment. That could be why there is
24 nothing between 61 and 90. Although there's the \$5,000
25 that go together. So the 31 to 60 days, that might be

1 why that's so low. Because they did a lump payment to
2 there and didn't apply it to whatever outstanding
3 invoice it was.

4 Q. Are you aware that parts statements would be
5 reconciled monthly?

6 A. Yes.

7 Q. So if they're reconciled monthly, why -- why
8 the lag, I guess I'm not understanding. Why the --

9 A. It has to do with the way Star keeps their
10 books. So if they keep -- I don't know the way their
11 receivable system works. I can only speak to the way
12 CDK's works. The way CDK's works is that we can pick
13 an individual invoice we want to apply payment to. So
14 if we received, say, 50 grand from someone, and they
15 have stuff over 121 days, they specifically tell us
16 which invoices it applies to.

17 And it can be going back all the way through
18 January. So we would apply the 50 grand to each
19 individual invoice they say it was, no matter how far
20 back it was, and that will lower the 121-plus days.

21 Q. Okay. Let me refer you to -- let's go to the
22 last page of that. So what is this page?

23 A. It's a summary.

24 Q. So recap page?

25 A. Yes.

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1 Q. And what, in short, does this tell you?

2 A. So this tells us the total of the current and
3 the aged inventory that -- I believe the total debits
4 is just telling us, by control number, how many debits
5 there are. And the total credits is showing us how
6 many credits there are. But that doesn't look like the
7 case, actually. So I'm not sure what the total debits
8 and total credits actually mean.

9 Q. Okay.

10 A. And then the second part just tells us which
11 journals go into this schedule.

12 Q. All right. So as far as the journals, the
13 different journal numbers, what is journal number one?

14 A. I don't know.

15 Q. If I told you that journal number one
16 pertained to new car deals, would that surprise you?

17 MS. FITZGERALD: Objection.

18 THE WITNESS: It would not.

19 BY MR. MULE:

20 Q. Do you know if it deals with new car deals,
21 do you know why there would be a service and parts
22 receivable connected with a new car deal?

23 A. I do not.

24 Q. If this was a schedule that was printed up,
25 and you were aware of what the journal numbers related